THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 23010 of 2005

Dated: 18.07.2006

Between:

APSRTC, rep. by its Managing Director, Musheerabad, Hyderabad and another.

.... PETITIONERS

AND

Dasharath Goud, S/o late Malla Goud,R/o 1-78, Near Goal Bungalow, Velpoor Post, Nizamabad District and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 23010 of 2005

Order:

Assailing the award dated 19.01.2005 passed by the Labour Court-II, Hyderabad, in I.D. No. 1 of 2003, directing the petitioners-Corporation to reinstate respondent No.1 into service with continuity of service, 80% back wages, and all attendant benefits, the petitioners-Corporation filed the present writ petition.

Learned Standing Counsel for the petitioners-Corporation contends that the Labour Court, without appreciating the evidence on record and relying on the sick certificate produced by respondent No.1, erroneously passed the impugned award directing the petitioners-Corporation to reinstate respondent No.1 into service with continuity of service, 80% back wages, and all attendant benefits. He, thus, prayed that the impugned award be set aside and the writ petition be allowed.

Heard the learned Standing Counsel for the petitioners-Corporation and perused the award of the Labour Court.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Labour Court, is to be examined.

A perusal of the award of the Labour Court, would clearly indicate that though the illness of the petitioner was within the knowledge of the 2nd petitioner-Depot Manager, there is no record as to whether the medical certificates produced by respondent No.1 were referred to the Corporation Hospital to find out its genuineness or otherwise, or whether it was communicated to respondent No.1 that the same were rejected or accepted. It also shows that the Chief Inspector, who complained against respondent No.1 was not examined and no leave record of respondent No.1 was produced before the Enquiry Officer, much less before the Labour Court. The award of the Labour Court further shows that even though respondent No.1 wanted to work from 31.07.2002 he was not allowed to work despite his submitting medical and fitness certificates before the Chief Inspector even prior to report Ex.M1, dated 12.08.2002. The Labour Court, upon

re-appreciation of evidence, held that the evidence on record is insufficient to impose major penalty on respondent No.1 and that the 2nd petitioner-Depot Manager, instead of acting upon the medical certificates submitted by respondent No.1, removed him from service. Holding so, the Labour Court passed the award setting aside the order of removal from service passed against respondent No.1, and directed the petitioners-Corporation to reinstate respondent No.1 into service with continuity of service, 80% back wages, and all attendant benefits, and no exception can be taken thereto.

The award of the Labour Court, judged from the parameters of certiorari jurisdiction of this Court under Article 226 of the Constitution of India, does not call for interference, for the petitioners-Corporation failed to point out any infirmities.

The writ petition is devoid of merit and the same is accordingly dismissed. No costs.

_____

N.V. RAMANA, J.

Date: 18.07.2006
Nsr/Ksr